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## Appeal Decision

Site visit made on 3 August 2020

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 August 2020**

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**Appeal Ref: APP/M2515/W/20/3251228**

**18 Gibbeson Street, Lincoln LN5 8JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Stefan Pearce of LGI Properties Ltd against the decision of Lincoln City Council.
  - The application Ref 2019/0879/FUL, dated 24 October 2019, was refused by notice dated 18 December 2019.
  - The development proposed is conversion and extension of existing offshoot and outbuilding to create an independent apartment (Class C3).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The description of the development provided on the planning application form has been replaced by a fuller version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately reflect the proposal and I have therefore used it within this decision.

### Main Issues

3. The main issues are the effect of the proposal on the living conditions of residents of:
  - 16 and 20 Gibbeson Street with regards to noise, disturbance and activity; and
  - 20 Gibbeson Street with regards to outlook.

### Reasons

#### *Living Conditions - Noise, Disturbance and Activity*

4. The rear of the appeal site has a close-knit relationship with the rear of the neighbouring property of 16 Gibbeson Street. Both properties share a common covered access from Gibbeson Street to the rear yards which include various outbuildings. The windows of habitable rooms of both the appeal site and No 16 look directly onto the open area to the rear. Due to this arrangement, activities in the rear area would be readily apparent to residents of No 16.

5. The introduction of a separate dwelling in this rear area would lead to a material change in the nature of the use of the site. Although I saw that the existing dwelling at No 18 was accessed from the rear yard, the proposal would introduce more comings and goings associated with the new dwelling through the rear yard. As well as residents accessing the new dwelling, this would also include deliveries and servicing. The creation of a separate amenity area for the new dwelling would also reduce the amenity area for the existing dwelling at No 18, concentrating the activities of residents of No 18 in an area closer to the habitable rooms of No 16. The level of noise and disturbance arising from the proposal as well as the change in the nature of activity would therefore be intrusive to residents of No 18 with regards to an area where they could expect a reasonable level of peace, quiet and privacy.
6. With regards to No 20, the proposed extension of the building would effectively screen the rear garden of this neighbouring property from activity to the rear of the appeal site. Although increased levels of activity may be apparent from an upper rear window of No 20, due to the separation and screening provided by the proposed layout, the effect on residents of No 20 in respect of this main issue would be acceptable. This matter does not therefore weigh against the appeal, although this does not outweigh my conclusions with regards to the effect on residents of No 16.
7. The appellant refers to a large structure to the rear of 12 Gibbeson Street which he considers establishes a precedent for structures such as the appeal proposal. However I have not been provided with full details as to the circumstances that lead to the erection of the structure at No 12 and therefore cannot be certain that it represents a direct parallel to the appeal proposal, including the nature of the use of the site. In any event, I have determined this appeal on its own merits.
8. The appellant refers to the use of one of the rear buildings as a hairdressing salon, which could also lead to increased noise and access movements to the rear yard. However, there is no evidence in relation to the lawfulness of this use and the building appeared to be vacant at the time of my visit. This matter does not therefore weigh in favour of the proposal.
9. Notwithstanding my conclusions on this main issue in respect of the living conditions of No 20, I conclude that the proposal would lead to significant harm to the living conditions of residents of No 16 with regards to noise, disturbance and activity. The proposal would therefore conflict with the amenity considerations of Policy LP26 of the Central Lincolnshire Local Plan 2017 (the Local Plan).

#### *Living Conditions - Outlook*

10. The appeal site includes a ground floor offshoot to the rear which is located directly on the boundary with No 20. I saw that this offshoot is prominent in views from the rear of No 20, although its impact is mitigated to a degree as it does not project along the full boundary.
11. The appeal proposal would result in the offshoot being extended along the whole length of the boundary with No 20. Due to the height and length of the wall along the boundary the proposal would appear as an obtrusive and overbearing feature in views from the rear garden of No 20. This would also exacerbate an existing impression of enclosure created by the outbuildings on

the appeal site and a block of flats to the rear of No 20. My concerns are reflected in the comments made by the owner of No 20 with regards to the appeal.

12. The appellant refers to the potential to erect a 6ft high fence along the boundary, which he contends would have a greater overbearing effect due to differences in ground levels. He also refers to existing means of enclosure which he considers have a similar overbearing effect. However, based on what I have seen and read, including the submitted plans, the appeal proposal would be significantly higher than such a fence and the existing means of enclosure, with commensurate harm to the living conditions of residents of No 20.
13. Reference has been made to the potential to lower the proposed structure. But this is not reflected on the submitted plans which form the basis of this appeal.
14. Reference has also been made to a structure at No 12 which the appellant considers would have a similar effect as the appeal proposal and therefore establishes a precedent. However, as stated previously, I have not been made aware of the circumstances that lead to this structure being erected, and I have determined this appeal on its own merits.
15. I conclude that the proposal would have significant harm on the living conditions of residents of No 20 with regards to outlook. The proposal would therefore conflict with Policy LP26 of the Local Plan with regards to the amenities which occupants of neighbouring land may reasonably expect to enjoy.

### **Other Matters**

16. The appellant has referred to a number of planning decisions in the Council's area which he considers set precedents in favour of the appeal proposal. However, based on the evidence before me, none of these represent a direct parallel to the appeal proposal with regards to matters including site layout, access arrangements, planning history, the nature of the area and the relationship with nearby properties. In any event, I have determined this appeal on its own merits.
17. Reference has been made to the potential to increase the number of residents of the host dwelling. However, whilst this may increase the level of activity of the site, this would enable the retention of the general layout of the yards to the rear and would not lead to the same degree of harm that would result from the appeal proposal.
18. The proposal would add to the provision and mix of housing in the area, and I am mindful of the regeneration aims of the Council as well as the accreditation of the appellant as landlord. However, due to the amount of accommodation proposed, these benefits would be very limited and would not outweigh the significant harm that I have identified. It may also be that the proposal could be undertaken with minimal disturbance to existing residents of the property compared to alternative schemes, but this does not outweigh the identified harm to neighbouring residents.
19. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.

**Conclusion**

20. For the reasons given above I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR